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APPLICATION NO.	I	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,392		06/23/2003	Jens Nielsen	104035.263005	1693
826	7590 04/11/2005			EXAMINER.	
ALSTON &	& BIRD	LLP	LAMM, MARINA		
BANK OF A		A PLAZA STREET, SUITE 40	ART UNIT	PAPER NUMBER	
		28280-4000	1616	· · · · · · · · · · · · · · · · · · ·	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Examiner		Ametication to	Applicant(a)
Examiner    Art Unit		Application No.	Applicant(s)
Marina Lamm    1016	Office Action Comments	10/602,392	NIELSEN ET AL.
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extencions of time may be available under the provision of 37 CFR 1.13(e). In no event, however, may a reply be timely filed after SK (5) MONTHS from the mailing date of this communication of 37 CFR 1.13(e). In no event, however, may a reply be timely filed after SK (5) MONTHS from the mailing date of this communication. As the provision of Claims  4) ■ Responsive to communication(s) filed on 07 December 2004.  2a) ■ This action is FINAL. 2b) ■ This action is non-final.  3) ■ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ■ Claim(s) 1-20 is/are pending in the application.  4a) Of the above claim(s) ■ is/are withdrawn from consideration.  5) ■ Claim(s) 1-20 is/are rejected.  7) ■ Claim(s) 1-20 is/are rejected to.  8) ■ Claim(s) 1-20 is/are rejected to.  8) ■ Claim(s) 1-20 is/are rejected to by the Examiner.  10) ■ The drawing(s) filed on ■ is/are: a) ■ accepted or b) ■ objected to by the Examiner.  Application Papers  9) ■ The specification is objected to by the Examiner.  10) ■ The drawing(s) filed on ■ is/are: a) ■ accepted or b) ■ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.121(d).  11) ■ The orath or declaration is objected to by the Examiner. Note the attached Office Action or form PTC-152.  Priority u	Office Action Summary	Examiner	Art Unit
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of times may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed  - Extensions of times may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed  - Extensions of times may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed  - Extensions of times may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed  - If the period for reply is specified above, the maximum stabutory period will upply and will expire SN (6) MONTHS from the mailling date of this communication. Pallur to reply versions and the state than there monitors after the mailling date of this communication, even if timely filed, may reduce any search placeful than a digital palluration.  - Failur to reply versions of ETINAL.  - 1			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions dime may be available under the provisions of 37 CPR 1.136(a). In no event, however, may a reply be timely filled after 30 K (b) MONTHS from the mailing date of this communication.  If NO period for reply is pecified when the mailing date of this communication.  If NO period for reply is pecified above, the maximum statutes preid will supply and will egist (b) (MONTHS from the mailing date of this communication.  Fallure to reply within the set or standard pried for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office and then there mentions after the mailing date of this communication, even if timely filled, may reduce any variety and present term adjustment. See 37 CPR 1.794(b).  Status  1) Responsive to communication(s) filled on 07 December 2004.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-20 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 1-20 is/are allowed.  6) Claim(s) 1-20 is/are allowed.  6) Claim(s) 1-20 is/are allowed.  7) Claim(s) is/are objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  9) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) An objected to explain the properties of the priodity documents have been received.  2c) Certified copies of the priodity documents have been received in Application No.  1. See the attached detailed Office action for a list of the certified copies not received.  **Intechment(s)**  **Intechment(s)**  **Intechment(s)**  **Intechment(s)**		tion appears on the cover sheet w	ith the correspondence address
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Paper No(s)/Mail Date  Notice of Draftsperson's Patent Drawing Review (PTO-948)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Notice of Informal Patent Application (PTO-152)	2) Notice of Draftsperson's Patent Drawing Review (PTO-	.948) Paper No( -0/SB/08) 5) Notice of I	s)/Mail Date nformal Patent Application (PTO-152)
Paper No(s)/Mail Date 1/31/05; 12/16/04. 6) Other:			
	6. Patent and Trademark Office FOL-326 (Rev. 1-04)	Office Action Summary	Part of Paper No./Mail Date 032905

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#### **DETAILED ACTION**

Acknowledgment is made of the response filed 12/7/04. Claims pending are 1-20.

### Priority

- 1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
- 2. Acknowledgment is made of the translation of the foreign priority document filed 12/7/04.

#### Terminal Disclaimer

3. The terminal disclaimer filed on 12/7/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,620,420 and any patent granted on US Application SN 10/025,065 has been reviewed and is accepted. The terminal disclaimer has been recorded.

# Claim Rejections - 35 USC § 102

- 4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 5. The rejection of Claims 1-6, 8-10, 16 and 17 under 35 U.S.C. 102(e) as being anticipated by Loffler (US 2001/0005737 or 6,489,395) is maintained for the reasons of the record.

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## Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 7. The rejection of Claims 11 and 13-15 under 35 U.S.C. 103(a) as being unpatentable over Loffler (US 2001/0005737 or 6,489,395) is maintained for the reasons of the record.
- 8. The rejection of Claims 7, 12 and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Loffler (US 2001/0005737 or 6,489,395) in view of Röckl et al. (US 5,690,919) is maintained for the reasons of the record.

## Response to Arguments

- 9. The rejection of Claims 1-20 under 35 U.S.C. 102(e) over Lanzendörfer et al. (US 6,620,420) has been overcome by perfecting foreign priority.
- 10. The provisional rejection of Claims 1-20 under 35 U.S.C. 102(e) over the copending Application No. 10/025,065 having a common inventor with the instant application has been overcome by perfecting foreign priority.
- 11. Applicant's arguments with respect to the Loffler reference have been fully considered but they are not persuasive.

# The Applicant argues:

"The claims of the present application recite the presence of 'one or more acryloyldimethyltaurate/vinylpyrrolidone copolymers.' The Office states that Loffler discloses these copolymers and relies on the disclosure of Aristoflex AVC in these references. However, Loffler describes Aristoflex AVC as an 'acrylamidopropylenesulfonic acid/vinylformamide copolymer.' See, e.g., paragraph [0077] of the '737 application. The copolymer disclosed in Loffler is

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different from the claimed copolymer in that it includes the use of vinylformamide monomer as opposed to vinylpyrrolidone monomer as recited in the present claims. Furthermore, the acrylamidopropylenesulfonic acid monomer disclosed in Loffler appears to be different than the acryloyldimethyltaurate monomer used in the claimed copolymer. Thus, Loffler does not disclose the claimed copolymer and the present claims are not anticipated by Loffler under 35 U.S.C. § 102(e)." See p. 7 of the reply.

In response, on p. 3 of the instant specification, Applicant describes the claimed polymer as containing the species filed in Chemical Abstracts under the registry numbers 58374-69-9, 13162-05-5 and 88-12-0 and available under the trade name ARISTOFLEX® AVC from Clariant. The search of the Chemical Abstracts revealed that the registry number 58374-69-9 corresponds to 1-Propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monoammonium salt; the registry number 13162-05-5 corresponds to N-vinylformamide; and the registry number 88-12-0 corresponds to 1-vinyl-2-pyrrolidone. The results of the search are reproduced below for the Applicant's convenience. See Appendix A. Thus, the claimed polymer contains vinylformamide fragment. Further, the polymer used by Loffler has the same trade name as the polymer used in the instant invention, i.e. ARISTOFLEX® AVC. The description of the product sold under this trade name by Clariant corresponds to the polymer claimed herein. See Appendix B. Therefore, it is reasonable to conclude that the polymer used in the Loffler reference is the same polymer as used in the instant invention.

#### Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SUPERVISORY PATENT EXAMINER

ml 3/31/05